

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

HUAWEI TECHNOLOGIES CO., LTD.
and FUTUREWEI TECHNOLOGIES,
INC.,

v.

YIREN RONNIE HUANG, and CNEX
LABS, INC.

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Civil Action No. 4:17-CV-893

Judge Mazzant

VERDICT FORM

We, the Jury, find as follows:

FUTUREWEI'S CLAIM FOR BREACH OF CONTRACT

QUESTION 1—NON-DISCLOSURE PROVISION

Has Futurewei proved by a preponderance of the evidence that Mr. Huang failed to comply with the Employment Agreement's Non-Disclosure of Confidential Information Provision?

☐ Yes

☒ No

If you answer "Yes" to Question 1, proceed to Question 2. If you answer "No" to Question 1, proceed to Question 4.

QUESTION 2

Has Futurewei proved by a preponderance of the evidence that it was harmed by Mr. Huang's failure to comply with Employment Agreement's Non-Disclosure of Confidential Information Provision?

___ Yes ___ No

If you answer "Yes" to Question 2, proceed to Question 3. If you answer "No" to Question 2, proceed to Question 4.

QUESTION 3

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Futurewei for its damage, if any, that resulted from Mr. Huang's failure to comply with the Employment Agreement's Non-Disclosure of Confidential Information Provision?

\$ _____

Proceed to Question 4.

QUESTION 4—PATENT APPLICATION DISCLOSURE PROVISION

Has Futurewei proved by a preponderance of the evidence that Mr. Huang failed to comply with the Employment Agreement's Patent Application Disclosure Provision?

☒ Yes ☐ No

If you answer "Yes" to Question 4, proceed to Question 5. If you answer "No" to Question 4, proceed to Question 7.

QUESTION 5

Has Futurewei proved by a preponderance of the evidence that it was harmed by Mr. Huang's failure to comply with the Employment Agreement's Patent Application Disclosure Provision?

☐ Yes ☒ No

If you answer "Yes" to Question 5, proceed to Question 6. If you answer "No" to Question 5, proceed to Question 7.

QUESTION 6

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Futurewei for its damage, if any, that resulted from Mr. Huang's failure to comply with the Employment Agreement's Patent Application Disclosure Provision?

\$ _____

Proceed to Question 7.

QUESTION 7—NON-SOLICITATION PROVISION

Has Futurewei proved by a preponderance of the evidence that Mr. Huang failed to comply with the Employment Agreement's Non-Solicitation Provision?

___ Yes

~~X~~ No

If you answer "Yes" to Question 7, proceed to Question 8. If you answer "No" to Question 7, proceed to Question 11.

QUESTION 8

Has Futurewei proved by a preponderance of the evidence that it was harmed by Mr. Huang's failure to comply with the Employment Agreement's Non-Solicitation Provision?

___ Yes ___ No

If you answer "Yes" Question 8, proceed to Question 9. If you answer "No" to Question 8, proceed to Question 11.

QUESTION 9

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Futurewei for its damage, if any, that resulted from Mr. Huang's failure to comply with the Employment Agreement's Non-Solicitation Provision?

\$ _____

Proceed to Question 10.

STATUTE OF LIMITATIONS ON FUTUREWEI'S BREACH OF CONTRACT CLAIM

QUESTION 10

Do you find by a preponderance of the evidence that Futurewei discovered, or should have discovered, Mr. Huang's breach of the Employment Agreement, if any, before December 28, 2013? Answer YES or NO.

☐ Yes ☐ No

Proceed to Question 11.

FUTUREWEI'S CLAIM FOR INTERFERENCE WITH CONTRACTUAL RELATIONS

QUESTION 11

Has Futurewei proved by a preponderance of the evidence that CNEX's conduct prevented performance of the Employment Agreement between Futurewei and Mr. Huang or made performance more expensive or difficult?

☐ Yes ☒ No

If you answer "Yes" to Question 11, proceed to Question 12. If you answer "No" to Question 11, proceed to Question 17.

QUESTION 12

Has Futurewei proved by a preponderance of the evidence that CNEX intended to disrupt the performance of the Employment Agreement between Futurewei and Mr. Huang or knew that disruption of performance was certain or substantially certain to occur?

☐ Yes ☐ No

If you answer "Yes" to Question 12, proceed to Question 13. If you answer "No" to Question 12, proceed to Question 17.

QUESTION 13

Has Futurewei proved by a preponderance of the evidence that CNEX's conduct was a substantial factor in causing harm to Futurewei?

☐ Yes ☐ No

If you answer "Yes" to Question 13, proceed to Question 14. If you answer "No" to Question 13, proceed to Question 17.

QUESTION 14

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Futurewei for its damage, if any, that resulted from CNEX's interference with the Employment Agreement between Mr. Huang and Futurewei?

\$ _____

Proceed to Question 15

QUESTION 15

Has Futurewei proved by clear and convincing evidence that the harm to Futurewei resulted from actual malice on the part of CNEX?

☐ Yes ☐ No

Proceed to Question 16.

**STATUTE OF LIMITATIONS FOR FUTUREWEI'S CLAIM FOR INTERFERENCE
WITH CONTRACTUAL RELATIONS**

QUESTION 16

Do you find by a preponderance of the evidence that Futurewei discovered, or should have discovered, the underlying acts of the interference before December 28, 2015?

☐ Yes ☐ No

Proceed to Question 17.

PLAINTIFFS' CLAIM FOR MISAPPROPRIATION OF TRADE SECRETS

QUESTION 17

Have Plaintiffs proved by a preponderance of the evidence the existence of one or more trade secrets?

☐ Yes ☒ No

If you answer "Yes" to Question 17, proceed to Question 18. If you answer "No" to Question 17, proceed to Question 25.

QUESTION 18

Have Plaintiffs proved by a preponderance of the evidence that they owned those trade secrets?

___ Yes ___ No

If you answer "Yes" to Question 18, proceed to Question 19. If you answer "No" to Question 18, proceed to Question 25.

QUESTION 19

Have Plaintiffs proved by a preponderance of the evidence that either CNEX, Mr. Huang, or both misappropriated those trade secrets?

	<u>YES</u>	<u>NO</u>
Mr. Huang	_____	_____
CNEX	_____	_____

If you answer "Yes" as to either Mr. Huang or CNEX, or both, in Question 19, proceed to Question 20. If you answer "No" to both Mr. Huang and CNEX in Question 19, proceed to Question 25.

QUESTION 20

Have Plaintiffs proved by a preponderance of the evidence that either CNEX, Mr. Huang, or both CNEX and Mr. Huang's misappropriation of those trade secrets caused CNEX, Mr. Huang, or both CNEX and Mr. Huang to be unjustly enriched?

	<u>YES</u>	<u>NO</u>
Mr. Huang	_____	_____
CNEX	_____	_____

If you answer "Yes" as to either Mr. Huang or CNEX, or both, in Question 20, proceed to Question 21. If you answer "No" to both Mr. Huang and CNEX in Question 20, proceed to Question 25.

QUESTION 21

What is the amount of ill-gotten gains, if any, received by Mr. Huang and/or CNEX proximately caused by their misappropriation of one or more of Plaintiffs' trade secrets?

As to Mr. Huang

Disgorgement: \$ _____

As to CNEX

Disgorgement: \$ _____

Proceed to Question 22.

QUESTION 22

Have Plaintiffs proved by clear and convincing evidence that CNEX and/or Mr. Huang's misappropriation was willful and malicious?

	<u>YES</u>	<u>NO</u>
Mr. Huang	_____	_____
CNEX	_____	_____

Proceed to Question 23.

QUESTION 23

Have Plaintiffs proved by a preponderance of the evidence that CNEX and Mr. Huang conspired together to misappropriate one or more of Plaintiffs' trade secrets?

___ Yes ___ No

Proceed to Question 24.

STATUTE OF LIMITATIONS FOR PLAINTIFFS' CLAIM FOR MISAPPROPRIATION OF TRADE SECRETS

QUESTION 24

Do you find by a preponderance of the evidence that Huawei and/or Futurewei discovered, or should have discovered, any misappropriation by Mr. Huang and/or CNEX before December 28, 2014? Answer YES or NO.

___ Yes ___ No

Proceed to Question 25.

PLAINTIFFS' CLAIM FOR VIOLATION OF RICO

QUESTION 25

Have Plaintiffs proved by a preponderance of the evidence the existence of an enterprise?

X Yes ___ No

If you answer "Yes" to Question 25, proceed to Question 26. If you answer "No" to Question 25, proceed to Question 33.

QUESTION 26

Have Plaintiffs proved by a preponderance of the evidence that the enterprise engaged in, or had some effect on, interstate or foreign commerce?

X Yes ___ No

If you answer "Yes" to Question 26, proceed to Question 27. If you answer "No" to Question 26, proceed to Question 33.

QUESTION 27

Have Plaintiffs proved by a preponderance of the evidence that CNEX, Mr. Huang, or both were employed by or associated with the alleged enterprise?

	<u>YES</u>	<u>NO</u>
Mr. Huang	<u>X</u>	___
CNEX	<u>X</u>	___

If you answer "Yes" as to either Mr. Huang or CNEX, or both, in Question 27, proceed to Question 28. If you answer "No" to both Mr. Huang and CNEX in Question 27, proceed to Question 33.

QUESTION 28

Have Plaintiffs proved by a preponderance of the evidence that CNEX, Mr. Huang, or both participated, either directly or indirectly, in the conduct of the affairs of the enterprise?

	<u>YES</u>	<u>NO</u>
Mr. Huang	<u>X</u>	___
CNEX	<u>X</u>	___

If you answer "Yes" as to either Mr. Huang or CNEX, or both, in Question 28, proceed to Question 29. If you answer "No" to both Mr. Huang and CNEX in Question 28, proceed to Question 33.

QUESTION 29

Have Plaintiffs proved by a preponderance of the evidence that CNEX, Mr. Huang, or both participated through a pattern of racketeering activity?

	<u>YES</u>	<u>NO</u>
Mr. Huang	_____	_____
CNEX	_____	_____

If you answer "Yes" as to either Mr. Huang or CNEX, or both, in Question 29, proceed to Question 30. If you answer "No" to both Mr. Huang and CNEX in Question 29, proceed to Question 33.

QUESTION 30

What are Plaintiffs' damages, if any, for its RICO claim? The amount of damages, if any, should be the amount specifically caused by and attributable to Defendants' violation of RICO. Do not include in this amount damages, if any, that flow from Plaintiffs' other claims.

\$ _____

Proceed to Question 31.

QUESTION 31

Have Plaintiffs proved by a preponderance of the evidence that CNEX and Mr. Huang conspired together to violate RICO?

☐ Yes ☐ No

Proceed to Question 32.

STATUTE OF LIMITATIONS FOR PLAINTIFFS' CLAIM FOR VIOLATION OF RICO

QUESTION 32

Do you find by a preponderance of the evidence that Huawei and/or Futurewei discovered, or should have discovered, any underlying facts of a RICO violation by Mr. Huang and/or CNEX before December 28, 2013? Answer YES or NO.

☐ Yes ☐ No

Proceed to Question 33.

PLAINTIFFS' CLAIM FOR VIOLATION OF THE CFAA

QUESTION 33

Have Plaintiffs proved by a preponderance of the evidence that Mr. Huang conspired with others and acted in concert with CNEX to violate the CFAA?

☐ Yes ☒ No

If you answer "Yes" to Question 33, proceed to Question 34. If you answer "No" to Question 33, proceed to Question 39.

QUESTION 34

Have Plaintiffs proved by a preponderance of the evidence that Mr. Huang conspired with others and acted in concert with CNEX and knowingly accessed without authorization, or exceeded their authorized access of, Plaintiffs' computers that were used in interstate or foreign commerce or interstate or foreign communication?

☐ Yes ☐ No

If you answer "Yes" to Question 34, proceed to Question 35. If you answer "No" to Question 34, proceed to Question 39.

QUESTION 35

Have Plaintiffs proved by a preponderance of the evidence that Mr. Huang conspired with others and acted in concert with CNEX and knowingly accessed without authorization, or exceeded their authorized access of, Plaintiffs' computers that were used in interstate or foreign commerce or interstate or foreign communication with the intent to defraud?

☐ Yes ☐ No

If you answer "Yes" to Question 35, proceed to Question 36. If you answer "No" to Question 35, proceed to Question 39.

QUESTION 36

Have Plaintiffs proved by a preponderance of the evidence that by accessing the computer without authorization, or by exceeding their authorized access, Mr. Huang and CNEX obtained anything of value, unless the object of the fraud and the thing obtained consist only of the use of the computer and the value of such use is not more than \$5,000 in any one-year period and they suffered damage or loss?

☐ Yes ☐ No

If you answer "Yes" to Question 36, proceed to Question 37. If you answer "No" to Question 36, proceed to Question 39.

QUESTION 37

What are Plaintiffs' damages, if any, for its CFAA violation claim? The amount of damages, if any, should be the amount specifically caused by and attributable to Mr. Huang and CNEX's violation of the CFAA. Do not include in this amount damages, if any, that flow from Plaintiffs' other claims.

\$ _____

Proceed to Question 38.

STATUTE OF LIMITATIONS FOR PLAINTIFFS' CLAIM FOR VIOLATION OF THE CFAA

QUESTION 38

Do you find by a preponderance of the evidence Huawei and/or Futurewei discovered, or should have discovered, any underlying facts of a CFAA violation by Mr. Huang and/or CNEX before December 28, 2015? Answer YES or NO.

___ Yes ___ No

Proceed to Question 39.

CNEX'S CLAIM FOR MISAPPROPRIATION OF TRADE SECRETS

QUESTION 39

Has CNEX proved by a preponderance of the evidence the existence of one or more trade secrets?

☒ Yes ☐ No

If you answer "Yes" to Question 39, proceed to Question 40. If you answer "No" to Question 39, proceed to the signature line, as you have completed your deliberations.

QUESTION 40

Has CNEX proved by a preponderance of the evidence that it owned those trade secrets?

☒ Yes ☐ No

If you answer "Yes" to Question 40, proceed to Question 41. If you answer "No" to Question 40, proceed to the signature line, as you have completed your deliberations.

QUESTION 41

Has CNEX proved by a preponderance of the evidence that either Huawei, Futurewei, or both misappropriated those trade secrets?

	<u>YES</u>	<u>NO</u>
Huawei	<u>X</u>	<u> </u>
Futurewei	<u> </u>	<u>X</u>

If you answer "Yes" as to either Huawei, Futurewei, or both, in Question 41, proceed to Question 42. If you answer "No" to both Huawei and Futurewei in Question 41, proceed to the signature line, as you have completed your deliberations.

QUESTION 42

Has CNEX proved by a preponderance of the evidence that either Huawei, Futurewei, or both Huawei and Futurewei's misappropriation of those trade secrets caused Huawei, Futurewei, or both to be unjustly enriched?

	<u>YES</u>	<u>NO</u>
Huawei	<u> </u>	<u>X</u>
Futurewei	<u> </u>	<u>X</u>

If you answer "Yes" as to either Huawei, Futurewei, or both, in Question 42, proceed to Question 43. If you answer "No" to both Huawei and Futurewei in Question 42, proceed to the signature line, as you have completed your deliberations.

QUESTION 43

What is the amount of ill-gotten gains, if any, received by Huawei and/or Futurewei proximately caused by their misappropriation of one or more of CNEX's trade secrets?

As to Huawei

Disgorgement: \$ _____

As to Futurewei

Disgorgement: \$ _____

Proceed to Question 44.

QUESTION 44

Has CNEX proved by clear and convincing evidence that the misappropriation of Huawei, Futurewei or both, were willful and malicious?

	<u>YES</u>	<u>NO</u>
Huawei	_____	_____
Futurewei	_____	_____

Proceed to Question 45.

QUESTION 45

Has CNEX proved by a preponderance of the evidence that Huawei and Futurewei conspired together to misappropriate one or more of CNEX's trade secrets?

☐ Yes ☐ No

Proceed to Question 46.

**STATUTE OF LIMITATIONS FOR CNEX'S CLAIM FOR MISAPPROPRIATION OF
TRADE SECRETS**

QUESTION 46

Do you find by a preponderance of the evidence that CNEX discovered, should have discovered, Plaintiffs' misappropriation, if any, before October 16, 2015? Answer YES or NO.

☐ Yes ☐ No

You have completed your deliberations. Please sign and date below.

Foreperson's Initials:

Date: 6-26-19